

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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<http://www.montgomerycountymd.gov/content/council/boa/board.asp>

**Case No. A-5901**

**PETITION OF DARLENE COWELL**  
(Hearing held July 23, 2003)

**OPINION OF THE BOARD**  
(Effective date of Opinion, October 3, 2003)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.624. The petitioner proposes to construct a one-story addition that requires an eleven (11) foot variance as it is within nine (9) feet of the rear lot line. The required setback is twenty (20) feet.

Jeremy Chancey, a contractor, represented the petitioner at the public hearing.

The subject property is Lot 15, Block F, Hadley Farms Subdivision, located at 20001 Electric Drive, Gaithersburg, Maryland, 20879, in the R-90 Zone (Tax Account No. 02552971).

Decision of the Board: Requested variance **denied**.

**EVIDENCE PRESENTED TO THE BOARD**

1. The petitioner proposes to construct a 12 x 14 foot one-story addition in the southern section of the property.
2. Mr. Chancey testified that the property is unique because it is a corner lot located at the intersection of Electra Drive and Cinnabar Terrace. Mr. Chancey testified that the lot size of the property is 7,000 square feet and that it is substandard for the R-90 Zone. Most lots in the petitioner's neighborhood are substandard for the R-90 Zone. See Exhibit No. 7 (zoning vicinity map).
3. Mr. Chancey testified that the location of the proposed addition is in a side yard, but that DPS has designated it as the property's rear yard. Mr. Chancey testified that the addition would be located in an area that has an entrance to the residence and that the new construction could not be located elsewhere on the property.

## **FINDINGS OF THE BOARD**

Based upon the binding testimony and the evidence of record, the Board finds that the variance must be denied. The requested variance does not comply with the applicable standards and requirements set forth in Section 59-G-3.1(a) as follows:

- (a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.*

The Board finds that the petitioner's lot has no exceptional topographical or other conditions peculiar to the property and that the petitioner's lot is larger than adjoining Lots 35, 36, 37 and 38. The Board finds the lots in the petitioner's neighborhood are all of substandard in size for the R-90 Zone.

The petition does not meet the requirements of Section 59-G-1.3(a) and the Board did not consider the other requirements in that section for the grant of a variance. Accordingly, the requested variance of eleven (11) feet from the required twenty (20) foot rear lot line setback for the construction of a one-story addition is denied.

The Board adopted the following Resolution:

On a motion by Louise L. Mayer, seconded by Angelo M. Caputo, with Donna L. Barron, Allison Ishihara Fultz and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above is adopted as the Resolution required by law as its decision on the above entitled petition.

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Donald H. Spence, Jr.  
Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing  
Opinion was officially entered in the  
Opinion Book of the County Board of  
Appeals this 3rd day of October, 2003.

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Katherine Freeman  
Executive Secretary to the Board

## **NOTE:**

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.